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Docket No.: 043890-0713

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Customer Number: 53080
Takehiko TANABU, et al. : Confirmation Number: 3296
Application No.: 10/518,904 : Group Art Unit: 2615
Filed: December 23, 2004 : Examiner: Joseph Saunders, Jr.
For: LOUDSPEAKER

REPLY BRIEF

Mail Stop Reply Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

Pursuant to 37 C.F.R. § 41.41, the following Remarks are respectfully submitted in
response to the Examiner's Answer dated March 19, 2008. Appellant reasserts all arguments
contained in the Principal Brief.

WDC99 1568216-1.043890.0713

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Status of Claims

Claims 1, 2, 5 and 6 are pending. Claims 1, 2, 5 and 6 stand finally rejected. It is from the final rejection of claims 1, 2, 5 and 6 that this Appeal is taken. Claims 3 and 4 were previously cancelled.

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Grounds of Rejection To Be Reviewed By Appeal

(1) Claims 1, 2, 5 and 6 were rejected under 35 U.S.C. § 103(a) for obviousness predicated upon Miyamoto et al. (USP No. 6,744,895) ("Miyamoto") in view of Han et al. (US 2002/0071590) ("Han").

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Argument

Claims 1, 2, 5 and 6 stand rejected under 35 U.S.C. § 103(a) over Miyamoto in view of Han.

It is alleged in the Examiner's response that the combination of Miyamoto and Han discloses the limitations of the present invention. Applicants respectfully submit that this allegation is incorrect.

On page 15, lines 11-14 of the Examiner's answer, the Examiner alleges that "since improved interval-accuracy is a result of the 'foregoing structure' as admitted by Applicant, and Han disclosed the 'foregoing structure', Applicant's arguments that follow in paragraphs 2-6 regarding the positional relationship between the structure and the diaphragm are moot" because one portion of the Applicants' Appeal Brief mentions that the structure of the loudspeaker of the present disclosure allows for improved interval-accuracy. Applicants respectfully disagree. While the statement made by the Applicants does not explicitly discuss the diaphragm, it is implicitly included in the statement, as a first and second diaphragm is included in all pending claims, and as the Examiner acknowledged, in paragraphs 2-6 of the Appeal Brief.

Furthermore, it is explicitly stated on page 3, line 16 - page 4, line 2 in the January 22, 2007 Office Action, that the interpretation of interval-accuracy is "that since the lower surface of the yoke is a reference plane of the frame during injection molding, that the diaphragm connected to the lower portion of the frame is precisely connected since it is connected to the part of the frame closest to the reference plane, in comparison to the other diaphragm connected to the upper portion of the frame since the height of the upper portion of the frame depends on the thickness of the components: yoke, magnet, top plate," which the Applicants agreed to in the April 23, 2007 response. Thus, the Examiner is fully aware that the positional relationship

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between the diaphragms and the other components of the loudspeaker play a significant role in the improvement of interval accuracy. As such, contrary to the Examiner's allegation, discussion of the positional relationship between the diaphragms and the other components is not "moot."

On page 16, lines 4-7 of the Examiner's Answer, the Examiner states "Applicant fails to realize that Miyamoto does disclose the positional relationship of the diaphragms to the frame...and that the combination of Miyamoto and Han is simply a replacement of Miyamoto's frame." However, as stated previously, neither Miyamoto nor Han disclose a difference in the interval-accuracy between the first diaphragm and the second diaphragm. Nor does the combination of the two references result in such a difference. In fact, there is no recognition of the phenomenon of interval-accuracy, let alone a suggestion that the interval-accuracy can be improved. As such, there is no suggestion or motivation for the use of the improved side of the loud speaker over the other in terms of interval-accuracy, structural integrity or any other feature. Therefore, Applicants respectfully submit that the combination of Miyamoto and Han fails to disclose the above cited features of the present invention.

In addition, it is alleged on page 17, lines 4-11 of the Examiner's Answer that it would have been obvious to use the frame of Han in place of the frame of Miyamoto to enhance the speaker of Miyamoto, and that the interval-accuracy would be a direct result of the combination of both references. However, the Examiner has not provided the requisite evidence necessary to support his attempt to combine the frame of Han, which fails to disclose the use of diaphragms, with the loudspeaker of Miyamoto, which does disclose diaphragms, let alone support his position that the attempted combination would result in the claimed relative positions of the diaphragm and other components of the loud speaker. As such, Applicants submit that it is not obvious to combine Miyamoto and Han.

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In view of the above arguments and the Appeal Brief, Appellant respectfully submits that the Examiner's rejections under 35 U.S.C. § 103 are not legally viable. Appellant, therefore, respectfully solicits the Honorable Board to reverse the Examiner's rejections of claims 1, 2, 5 and 6 under 35 U.S.C. § 103(a) over Miyamoto et al. (USP No. 6,744,895) in view of Han et al. (US 2002/0071590).

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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